

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION

UNITED STATES OF AMERICA

VS.

CRIMINAL ACTION NO. 3:06CR59TSL-JCS

MELVIN LAMONT RUSSELL

ORDER

This cause is before the court on the pro se motion of defendant Melvin Lamont Russell for modification of his sentence pursuant to 18 U.S.C. § 3582(c)(2). The government opposes the motion, and the court, having reviewed the submissions and the record in this case, concludes that the motion is not well taken and should be denied.

On July 13, 2006, defendant was indicted on two counts of distribution of cocaine hydrochloride, in violation of 21 U.S.C. § 841(a). On July 6, 2006, defendant pled guilty to count 2 of the indictment, and on September 7, 2006, the court sentenced defendant to a 57-month term of imprisonment, to be followed by a 3-year term of supervised release.

By his current motion, defendant urges that he is eligible for resentencing as a result of the recent amendments to the United States Sentencing Guidelines, which lowered the offense level for crimes involving crack cocaine and which were made retroactive by the Sentencing Commission. In response, the government correctly points out, that Russell's case did not involve crack cocaine.

Thus, he is not entitled to be resentenced, see U.S.S.G. 1B1.10(c) (a reduction in sentence is not authorized if none the amendments which have been made retroactive, apply to the defendant), and his motion will be denied.

It is ordered that defendant's motion for modification of sentence is denied.

SO ORDERED, this the 7th day of July, 2008.

/s/ Tom S. Lee_____
UNITED STATES DISTRICT JUDGE